

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JACK CLARK, et al., : CIVIL ACTION NO. 08-2957 (MLC)
Plaintiffs, : **MEMORANDUM OPINION**
v. :
CARLSON COMPANIES, INC., :
et al., :
Defendants. :
:

THE COURT ordering the parties to show cause why, inter alia, the action should not be remanded to state court for lack of jurisdiction under 28 U.S.C. § ("Section") 1332 (dkt. entry no. 26, 3-16-09 Order to Show Cause); and the Court explaining that (1) plaintiffs did not properly assert the citizenship of the seven new defendants named in the Second Amended Complaint ("Seven New Defendants"), (2) Carlson Companies, Inc., Carlson Hotels Worldwide, Inc., and Brunswick Motel Enterprises, Inc. (collectively, "Carlson Defendants"), as the removing parties, must demonstrate that the Court has jurisdiction by properly asserting the citizenship of the Seven New Defendants as it existed on February 10, 2009, and (3) the proper way to determine citizenship (id. at 2-3; see also dkt. entry no. 3, 6-19-08 Order to Show Cause); and the Court advising that if any party failed to demonstrate jurisdiction by April 28, 2009, then that party would be deemed to support remand (3-16-09 Order to Show Cause at 5); and

THE CARLSON DEFENDANTS demonstrating citizenship of only one - Lodgian, Inc. - of the Seven New Defendants (dkt. entry no. 30, Certification at 2-3); and the Carlson Defendants not asserting, or even addressing, the citizenship of the remaining Seven New Defendants (see id. at 1-3); and the Carlson Defendants therefore failing to show that each defendant is deemed to be a citizen of a different state in relation to plaintiffs, see 28 U.S.C. § 1332(a)(1); Lincoln Prop. Co. v. Roche, 546 U.S. 81, 89 (2005) (requiring "complete diversity between all plaintiffs and all defendants"); and the Court thus intending to (1) grant the Order to Show Cause, and (2) remand the action to state court for lack of jurisdiction under Section 1332;¹ and for good cause appearing, the Court will issue an appropriate order.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge

Date: July 2, 2009

¹ The Court emphasizes that this decision addresses only the issue of subject matter jurisdiction. The Court does not decide issues of proper venue or personal jurisdiction; those issues may be addressed in state court.